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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,621

03/22/2005

Paul R. Marshall

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

GOYEA, OLUSEGUN

ART UNIT

PAPER NUMBER

4176

MAIL DATE

DELIVERY MODE

04/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,621	<b>Applicant(s)</b> MARSHALL ET AL.	
	<b>Examiner</b> OLUSEGUN GOYEA	<b>Art Unit</b> 4176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050901</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Priority***

1. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 119, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: printer 21 (page 6, line 23). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action.

### ***Specification***

3. The disclosure is objected to because lines 5-6on page 9 contain a reservation clause, therefore failing to comply with 37 C.F.R. 1.79 which states, “A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application, but an application disclosing unclaimed subject matter may contain a reference to a later filed application of the same application or owned by a common assignee disclosing and claiming that subject matter”. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Claremont et al. (US 7,124,097), hereinafter referred to as Claremont.

6. Referring to **claim 1**, Claremont discloses a system for order management for replacing consumables comprising:

a receiver (33) for receiving a signal indicative of a level of a consumable in a component (30a) being below a threshold; (see col. 3, lines 29-33)

an output module (35) responsive to the receiver for indicating that the component requires replacement; (see col. 4, lines 17-23)

an input module (38) for receiving a signal indicative of an instruction to order the component; and (see col. 4, lines 24-30)

a messenger (39) responsive to the input module for sending signals onto a communications network representing an order for a replacement component. (see col. 3 lines 34-44, col. 4, lines 8-16 and lines 24-30).

7. Referring to **claim 3**, Claremont discloses a system for order management for replacing consumables comprising:

a level detector (30b) for detecting if a level of a consumable in a component (30a) is below a threshold; ; (see col. 3, lines 29-33)

an output module (35) responsive to the level detector for indicating that the component requires replacing; (see col. 4, lines 17-23)

an input module (38) for receiving a signal indicative of an instruction to order the component; (see col. 4, lines 24-30)

and a messenger (39) responsive to the input module for sending signals onto a communications network (24) representing an order for a replacement component. (see col. 3 lines 34-44, col. 4, lines 8-16 and lines 24-30).

8. Referring to **claim 5**, Claremont discloses a system for order management for replacing consumables comprising:

automatically determining if a level of a consumable in a component (30a) is below a threshold; (see col. 3, lines 29-33)

if a positive determination is made, indicating that the component requires replacing; (see col. 4, lines 17-23)

awaiting a signal indicative of an instruction to order the component; (see col. 4, lines 24-30)

and in response to receiving the instruction signal, sending via a communications network (24) signals representing an order for a replacement component. (see col. 3 lines 34-44, col. 4, lines 8-16 and lines 24-30).

9. Claims 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Aruga et al. (US 2002/0099630), hereinafter referred to as Aruga.

10. Referring to **claim 6**, Aruga discloses a system for order management for replacing consumables comprising:

a receiver (33) for receiving a signal in respect of each of plural components (30a) indicative of a level of a consumable in that component being below a threshold; (see paragraph 0056-0058)

an aggregator (34) for aggregating the received signals and for generating a composite order therefrom; (see paragraph 0058-0059)

and a messenger (39) responsive to the aggregator for sending signals onto a communications network representing an order for components in the composite order. (see paragraph 0060-0061)

11. Referring to **claims 7 and 8**, Aruga discloses a system for order management for replacing consumables comprising:

a plurality of level detectors (30b), each level detector being for detecting if a level of a consumable in a respective component (30a) is below a threshold and for sending a representative signal in response; (see paragraph 0050-0053 and 0056-0058)

and an aggregator (34; 25) for aggregating signals from the level detectors and for generating a composite order therefrom. (see paragraph 0058-0059)

a messenger (39) responsive to the aggregator for sending signals onto a communication network representing an order for components in the composite order. (see paragraph 0060-0061)

12. Referring to **claims 9 and 10**, Aruga discloses a system for order management for replacing consumables comprising:

determining if a level of a consumable in each of two or more components (30a) in one or more devices is below a respective threshold; sending an order signal to an aggregator (34; 25); (see paragraph 0050-0053 and 0056-0058)

and in the aggregator, aggregating signals in respect of each of the components to form an aggregate component order. (see paragraph 0058-0059)

sending signals onto a communications network (24) representing an order for the components included in the aggregate component order. (see paragraph 0060-0061)

***Claim Rejections – 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claremont et al. (US 7,124,097), as applied above in the rejection of claims 1 and 3 under 35 U.S.C. 102(e), in view of Aruga et al. (US 2002/0099630).

16. Referring to **claim 2**, Claremont discloses a system for order management for replacing consumables comprising: a receiver (33) for receiving a signal indicative of a level of a consumable in a component (30a) being below a threshold; an output module (35) responsive to the receiver for indicating that the component requires replacement; an input module (38) for receiving a signal indicative of an instruction to order the component; a messenger (39) responsive to the input module for sending signals onto a communications network representing



an order for a replacement component and the messenger (39) being for sending signals representing an order for each replacement component for which an order instruction signal was received by the input module.

Claremont does not explicitly disclose a system for order management for replacing consumables including:

an aggregator (34) for aggregating level signals over a period of time,

However, Aruga discloses a system for order management for replacing consumables including:

an aggregator (34) for aggregating level signals over a period of time, (see paragraph 0056-0059 and 0077)

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Claremont so as to have included an aggregator (34) for aggregating level signals over a period of time, in accordance with the teaching of Aruga, in order to improve the capability of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Additionally, the examiner interprets some of the functions of computer 11 in Aruga's teaching to be similar to the aggregator. One of ordinary skill in the art would have been motivated to include a computer program/device for performing the aggregator's function in the system of Claremont.

17. Referring to **claim 4**, Claremont discloses a system for order management for replacing consumables comprising: a level detector (30b) for detecting if a level of a consumable in a component (30a) is below a threshold; an output module (35) responsive to the level detector for indicating that the component requires replacing; an input module (38) for receiving a signal indicative of an instruction to order the component; a messenger (39) responsive to the input module for sending signals onto a communications network (24) representing an order for a replacement component and the messenger (39) being for sending signals representing an order for each replacement component for which an order instruction signal was received by the input module.

Claremont does not explicitly disclose a system for order management for replacing consumables including:

an aggregator (34) for aggregating signals from plural level detectors, each associated with a respective component,

However, Aruga discloses a system for order management for replacing consumables including:

an aggregator (34) for aggregating signals from plural level detectors, each associated with a respective component, (see paragraph 0056-0059 and 0077)

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Claremont so as to have included an aggregator (34) for aggregating signals from plural level detectors, each associated with a respective component, in accordance with the teaching of Aruga, in order to improve the capability of the system, since

so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Additionally, the examiner interprets some of the functions of computer 11 in Aruga's teaching to be similar to the aggregator. One of ordinary skill in the art would have been motivated to include a computer program/device for performing the aggregator's function in the system of Claremont.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEGUN GOYEA whose telephone number is (571) 270-5402. The examiner can normally be reached on Monday through Thursday, 8:00 to 5:00 (ET).

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. G./  
Examiner, Art Unit 4176  
04/22/2008

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 4176